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REMARKS

Favorable reconsideration of the present application as currently constituted is respectfully requested.

Claims 1-5, 7-10, 12-39, 44 and 45 are pending in the application. Claims 13-14 have been allowed. Claims 1, 7, 8, 10, 17, 18, 23, 24, 31, 32, 33, 34, 36, 44 and 45 have been amended.

Claims Rejections – 35 U.S.C. § 102

Claims 1-3, 5, 7-10, 15-20, 22-24, 26-34 and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Burr (US 5,318,043).

Independent claims 1, 7, 17, and 32 have been amended to more clearly define the invention sought to be protected by them.

Applicant respectfully submits that Burr does not teach a tongue retention device having a single flange. More particularly, Burr discloses a prophylactic device for oral sex to be worn in the mouth of a person practicing oral sex. However, as shown clearly in Figures 1-4, the Burr device comprises at least a pair of flanges [column 2, lines 32-34].

Burr states at column 4, lines 43-45, that “[a] significant feature of the condom 31 [in Figs. 1-5] is the provision of a pair of flanges 36 and 37 disposed adjacent to the open end 34” [emphasis added]. The Burr device further comprises a channel 38 “defined between the flanges 36 and 37” [emphasis added] (see column 4, line 52).

Thus, it is respectfully submitted that Burr does not teach or suggest in figures 1-4 a device for retaining a tongue comprising a single flange. Burr actually teaches away from a single flange, as it states that a *significant feature* is the provision of a pair of flanges. Thus, the Burr device is structurally very different than the present device as claimed in amended independent claims 1, 7, 17, and 32. Accordingly, based on the foregoing analysis, Applicant submits that claims 1, 7, 17, and 32 and dependent claims 3, 5, 8-10, 15, 16, 18-20, 22-24, 26-21, 34 and 36-38 are allowable over the cited prior art.

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Claims Rejections – 35 U.S.C. § 103

Claims 4, 12, 21, 25, 35, 39 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burr in view of Alvarez (US 5,649,540). Applicant traverses these rejections for the reasons now following.

Claim 4 is dependent on independent claim 1, claim 12 is dependent on independent claim 7, claims 21 and 25 are dependent on independent claim 17, claims 35 and 39 are dependent on independent claim 32 and claim 45 is dependent on independent claim 44.

Claim 44 has been amended to more clearly define the invention sought to be protected by it. More particularly, claim 44 is now directed to a kit comprising a tongue retention device comprised of a single flange.

As discussed above, Burr does not disclose in figures 1-5 a device for retaining a tongue, substantially as claimed. Burr teaches a pair of flanges, not a device comprising a single flange. Hence, Burr does not disclose in figures 1-5 a device for retaining a tongue, substantially as claimed in claims 1, 7, 17, 32 and 44.

Thus, it would not have been obvious to the skilled artisan to make a tongue retention device as claimed in 4, 12, 21, 25, 35, 39 and 45 in view of Alvarez.

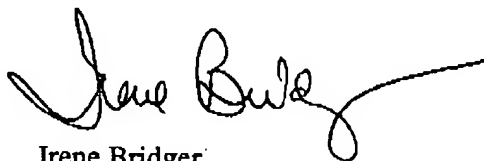
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SUMMARY AND CONCLUSION

In view of the arguments presented by Applicant herein, Applicant submits that claims 1-5, 7-10, 12, 15-39, 44 and 45 are in a condition for allowance and such allowance is respectfully requested.

Respectfully submitted,



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